IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.309 of 2011

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1. Smt. Krishna Devi, W/o Late Dharnidhar Singh, Resident of Village Harigoan, P.O. Samia Barchatta, P.S. Jagdishpur, District Bhojpur, Arrah Permanently her Son Chandrajeet Kumar C/o Harbans Rai, Atma Ram Lane, P.O. G.P.O., P.S. Jakkanpur, District Patna.
2. Chandrajeet Kumar, S/o Late Dharnidhar Singh Resident of Mohalla Atma Ram Lane, P.O. G.P.O., P.S. Jakkanpur, District, Patna.

.... Petitioners

Versus

1. The State of Bihar
2. The Secretary, Finance (P.C.C.) Department, Govt. of Bihar, Patna.
3. The Secretary, The Department of Water Resources, Govt. of Bihar, Patna.
4. The S.E., Drainage Investigation Circle, Muzaffarpur.
5. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. R. K. Rajan, Advocate.

For the Respondents : Mr. P.K. Verma, A.C. to S.C. 26

For Accountant General : Mr. Mani Kant Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the petitioners and the State.

2. Husband of Petitioner No. 1 earlier served as Assistant Engineer in Water Resources Department, superannuated from service with

effect from 31.01.1996. Sri Singh could not pass departmental examination, for his failure to pass the said examination he could not be allowed monetary benefits, though such monetary benefits could have been allowed in the light of the Government instruction dated 14.09.1992, as thereunder it is specifically observed that those Government employees who could not pass the departmental examination and if crossed 50 years of age then for the remaining service tenure they could be exempted from passing the departmental examination and could be allowed the financial benefit. In this connection, husband of Petitioner No. 1 moved this Court in C.W.J.C. No. 11775 of 1999 which was disposed of under order dated 04.08.2005 and the present writ petition has been filed assailing the order dated 19.10.2006 (Annexure-11), whereunder request of her husband to exempt him from passing the departmental examination after he attained the age of 50 years in the light of the Circular Letter dated 14.09.1992 has been rejected.

3. Having perused the impugned order

dated 19.10.2006, I am satisfied that the Departmental Commissioner has not given any cogent reason for not allowing the husband of Petitioner No. 1 benefit of circular letter dated 14.09.1992 as if the husband of the petitioner could not pass the departmental examination he could not get the financial benefit until 50 years but had he been allowed the exemption in the light of the circular dated 14.09.1992 financial benefit could have come to him in the light of the exemption allowed.

4. Accordingly, while quashing the order dated 19.10.2006, Annexure-11, I direct the competent authority to grant exemption to the husband of Petitioner No. 1 after he attained the age of 50 years, and consider his case for grant of corresponding financial benefit, as early as possible in any case within a period of one month from the date of receipt/production of a copy of this order before the Departmental Commissioner. Any recovery made pursuant to order of the Accountant General dated 14.02.2007, Annexure-16 be refunded to the petitioners within one

month from the date of receipt/production of a copy of this order before the Departmental Commissioner.

5. The writ petition is, accordingly, disposed of.

(V.N. Sinha, J)

P.K.P.

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